

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on January 22, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 266 - 1-18-01**
Executive Action: **HB 157 - DPAA**
HB 165 - DPAA

HB 146 - DPAA**HEARING ON HB 266**

Sponsor: Rep. Gilda Clancy, HD 51, Helena said the Government Accountability Act was enacted in the last Legislature as a request of the public to require government agencies to clearly articulate their authority to perform government acts by providing information upon request. The government entities do not have the authority to impose an Act. The proposed language in HB 266 is an effort to clarify and reaffirm the original intent of the Act. HB 266 would apply to an agency that oversees the licensing, permitting or certification process. The agency would be required to submit to the applicant, in writing, an explanation as to why the application was denied by specific statutes and rules the governing body considered. This explanation would be required within 30 days. This piece of legislation is very important for economic development in the state.

Proponents: Andy Skinner, Board Member, Helena Property Owners' Association.

Jim Taylor, Registered Engineer, Montana and California.

George Larson, Helena

Peggy Trenk, Montana Association of Realtors

{Tape : 1; Side : A; Approx. Time Counter : 0 - 12}

Opponents: Gordon Morris, Director, Montana Association of Counties

Joe Mazurek, Attorney, representing the City of Great Falls said he had just seen the amendments and did not completely understand them. He is concerned by what is introduced, as putting a governmental entity in the position of having to grant or deny something before even the application process has gone through. There may be requirements for notice, there may be requirements for public hearings and if the applicant simply makes the request for the statement, you have 30 days to deliver it. The time for making a decision on the application may not have even run its course. If this is going to go forward, it should be made clear that the government doesn't have to provide a statement of authority for an act they haven't taken yet, the consequences of which may be the granting of the permit or license. He cautioned the Committee to look carefully at this and make sure it works if they pass it.

Questions from Committee Members and Responses: Reps. Clark, Shockley, Gallus, Noennig, Hurdle, Harris to Mr. Mazurek; Mr. Taylor; Mr. Skinner; Mr. Morris for clarification.

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{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 6.2}

Closing by Sponsor: Rep. Clancy closed the Hearing on HB 266.

EXECUTIVE ACTION ON HB 157

Motion: REP. GALLUS moved that HB 157 DO PASS. #1
EXHIBIT(juh17a01)

Discussion: Reps. Gutsche, Gallus, Eggers, Noennig, Clark, Wolery, Harris, Laszloffy.

Motion: REP. LASZLOFFY offered a Conceptual Amendment to HB 157 to see if Rep. Gallus is opposed to reducing this from a felony to a misdemeanor. #2

Discussion: Reps. Noennig, Eggers, Holden, Peterson, Hurdle, Gallus, Newman.

{Tape : 1; Side : B; Approx. Time Counter : 6.2 - 29.7}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 6.2}

Motion: REP. GALLUS moved that HB 157 BE AMENDED. #3

Discussion: Reps. Noennig, Peterson, Gallus, Shockley, Wolery, Laszloffy, Clark.

Vote: Motion on Gallus amendment carried 16 - 3 with Reps. Newman, Peterson, Shockley voting no.

Motion: REP. ADAMS moved that HB 157 BE TABLED. #4 Motion failed 8-12.

Motion: REP. GALLUS moved that HB 157 DO PASS AS AMENDED. #5

Discussion: Reps. Harris, Hurdle, Mr. MacMaster, Gallus
EXHIBIT(juh17a02)

Without objection, David Ohler, Department of Corrections, answered questions from Reps. Gallus, Hurdle and Laszloffy

{Tape : 2; Side : A; Approx. Time Counter : 6.2 - 29.6}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 2.1}

Further Discussion: Reps. Peterson, Newman

Vote: Motion #5 carried 13-7 with Reps. Clark, Clancy, Eggers, Gutsche, Harris, Hurdle and Mangan voting no.

EXECUTIVE ACTION ON HB 64

Motion: REP. PETERSON moved that HB 64 DO PASS. #6

Motion: REP. PETERSON moved that HB 64 BE AMENDED. #7

Discussion: Reps. Peterson, Adams, Wolery, Noennig, Gutsche

Without objection, Kurt Alme, Director, Department of Revenue, clarified the question of a fiscal note. Rep. Shockley said technically you cannot get a revised fiscal note until the Bill is amended and passed. Before it goes on the floor, a revised fiscal note has to be provided. The agency is cooperative in regard to this Bill.

{Tape : 2; Side : B; Approx. Time Counter : 2.1 - 29}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 2.5}

Further Discussion: Rep. Curtiss.

Vote: Motion on Peterson amendment #7 carried unanimously 19-0

Motion: REP. PETERSON moved that HB 64 DO PASS AS AMENDED. #8

Discussion: Reps. Clark, Noennig, Hurdle, Laszloffy.

Vote: Motion failed 5-14 with Reps. Shockley, Laszloffy, Clark, Adams, Clancy, Curtiss, Eggers, Gallus, Gutsche, Harris, Holden, Hurdle, Rice and Thomas voting no.

Motion/Vote: Rep. Noennig moved that HB 64 be Tabled. #9 Motion carried unanimously. 19-0.

EXECUTIVE ACTION ON HB 165

Motion: Rep. Gutsche moved that HB 165 DO PASS. #10

Motion: Rep. Laszloffy moved an amendment to HB 165. #11

EXHIBIT (juh17a03)

Discussion: Reps. Newman, Gutsche, Younkin, Mr. MacMaster, Noennig, Eggers for clarification. Without objection, Sarah Bond responded.

Vote: The Laszloffy amendment (#11) passed unanimously 19-0.

Motion: Rep. Noennig moved amendments **EXHIBIT**(juh17a04) #12.

Discussion: Reps. Noennig, Gutsche, Newman

Vote: The Noennig amendment (#12) carried unanimously 19-0.

{Tape : 3; Side : A; Approx. Time Counter : 2.7 - 29}

Motion: Rep. Rice moved an amendment #13

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 2.9}

Discussion: Mr. MacMaster explained the amendments' procedure. Reps. Harris, Gutsche, Rice, Gallus, Clark, Harris, Eggers, Younkin, Wolery.

Vote: The Rice amendment #13 failed 3-17.

Motion: Rep. Noennig moved HB 165 DO PASS AS AMENDED. #14

Discussion: Reps. Holden, Gutsche, Shockley

Vote: Motion #14 carried 17-3 with Reps. Peterson, Rice and Wolery voting no.

EXECUTIVE ACTION ON HB 146

Motion: REP. SHOCKLEY moved that HB 146 DO PASS. #15

Discussion: Rep. Shockley explained the Bill.

{Tape : 3; Side : B; Approx. Time Counter : 3 - 29.1}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 0.6}

Motion: REP. SHOCKLEY moved that HB 146 BE AMENDED. #16
EXHIBIT(juh17a05)

Discussion: Reps. Shockley, Wolery, Newman, Hurdle, Noennig,

{Tape : 4; Side : A; Approx. Time Counter : 0.6 - 5.4}

{Tape : 4; Side : A; Approx. Time Counter : 5.4 - 16.2}

Vote: The Shockley amendment (#16) carried unanimously 20-0.

Discussion: Reps. Noennig, Shockley with concerns to Matt Robertson, Department of Corrections, without objection; Reps. Gallus, Newman, Clark, Peterson, Curtiss, for clarification.

{Tape : 4; Side : A; Approx. Time Counter : 16.3 - 29.6}

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 12.6}

Motion/Vote: REP. SHOCKLEY moved that HB 146 BE AMENDED. #17
Motion carried unanimously 20-0

Motion/Vote: REP. SHOCKLEY moved that HB 146 DO PASS AS AMENDED.
#18. Motion carried 11-8 with Reps. Laszloffy, Adams, Curtiss, Eggers, Gallus, Noennig, Peterson and Rice voting no.

{Tape : 4; Side : B; Approx. Time Counter : 12.6 - 18.3}

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh17aad)